

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION**

POLLY A. MILLER, *et al.*,

Plaintiffs,

v.

BALTIMORE GAS & ELECTRIC
COMPANY, *et al.*,

Defendants.

EXHIBIT B

Case No. CCB 00CV2808

NOTICE OF PROPOSED SETTLEMENT

TO: ALL AFRICAN-AMERICANS WHO HAVE BEEN EMPLOYED BY CALVERT CLIFFS NUCLEAR POWER PLANT IN NON-MANAGERIAL POSITIONS AT ANY TIME FROM SEPTEMBER 20, 1996 THROUGH MAY 17, 2005

I. PURPOSE OF THIS NOTICE

A. On September 20, 2000, Plaintiffs Polly A. Miller, Beverly L. Pickett, Dante O. King, Elbertino C. Dennis, Phillip Sutton, Angela R. Washington-Sewell, Michelle Patton and Danny Adams (collectively, "Plaintiffs"), filed a Complaint in the United States District Court for the District of Maryland on behalf of themselves and a class of current and former African-American employees at the Calvert Cliffs Nuclear Power Plant, Inc. ("CCNPP"). The lawsuit alleges race discrimination in employment practices, specifically, *inter alia*, claims under Title VII, 42 U.S.C. § 2000 *et. seq.* ("Title VII") and 42 U.S.C. § 1981 ("Section 1981"). The Parties to that case have reached a Settlement, which covers and provides relief to both the named Plaintiffs and the members of the Class, the terms of which are incorporated into a proposed Consent Decree filed with the United States District Court for the District of Maryland on May 17, 2005.

B. The Parties agreed, and the District Court has ordered, that this Notice be sent to you because you have been identified as an eligible member of the Class. The purpose of this Notice is to inform you of the proposed Settlement of this lawsuit and your rights in regard to it.

C. **YOU ARE HEREBY NOTIFIED** that a **proposed Settlement** of this lawsuit has been reached by the Parties and has been granted preliminary approval by the District Court supervising this case. If the Court grants final approval, this will be a complete Settlement of this case and will provide injunctive and monetary relief for eligible members of the Class. The Settlement would be implemented in the form of a **Consent Decree** lasting **three years**, during

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which the District Court would retain jurisdiction over the case. Injunctive changes to CCNPP's employment practices would be implemented within six months. If you would like to receive a complete copy of the Consent Decree, or if you have any questions about the Consent Decree, please contact Class Counsel at the addresses or telephone numbers listed below.

D. A **public hearing** concerning the fairness of the Settlement (the "Fairness Hearing"), as embodied in the proposed Consent Decree, and to determine whether this case should finally be settled, will be held at 2:00 p.m., on the 22nd day of July, 2005, before the Honorable Catherine C. Blake, United States District Judge for the District of Maryland, in Courtroom 7D at the United States Courthouse, 101 W. Lombard Street, Baltimore, Maryland 21201.

E. If for some reason you disapprove or have an objection to the Settlement and/or the proposed Consent Decree, you may object, personally or through an attorney, by filing your objection, which must be in writing and signed by you or your legal representative, and mailed to Timothy B. Fleming and Lori B. Kisch, Class Counsel, at their address below, no later than July 1, 2005. No particular form is required, but it should contain your address and the name and civil number of the case. For an objection, do not use the Opt-Out Election form because that is something different, and you do not need to opt-out in order to file an objection. Any persons filing objections may appear at the above-referenced public hearing to be heard by the Court. Your objection should clearly explain why you object to the Settlement and/or the proposed Consent Decree, Agreement and must state whether you (or someone on your behalf) intend to appear at the Fairness Hearing. All objections must be postmarked by July 1, 2005 (21 days prior to the public hearing) to be considered. **Please do not telephone the Clerk of the Court with questions; instead, call Class Counsel at 202-263-3681 or 202-467-4123.**

F. Any member of the Class who does not object in the manner described above, or opt-out using the Opt-Out Election form, shall be deemed to have approved the terms of the Settlement and the proposed Consent Decree and to have waived objections and shall forever be foreclosed from objecting to the fairness or adequacy of the proposed Settlement, the payment of attorneys' fees and costs, or any other aspect of the Settlement of this lawsuit, and shall be bound by the judgment in this case.

G. If you approve of, or do not wish to object to, the Settlement and the proposed Consent Decree, you do not have to do anything, and you do not have to appear at the Fairness Hearing. You may, however, attend the Fairness Hearing and request to be heard in support of the Settlement and the proposed Consent Decree. If you intend to speak at the Fairness Hearing, please notify Class Counsel of that fact by July 15, 2005.

H. If you are an otherwise eligible Class Member but previously signed a waiver or

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release of claims in connection with the TQPC process, a reduction-in-force, or early retirement, or otherwise, you are still eligible to file a claim and pursue recovery of an award from the Special Master relating to your work at CCNPP. Such waivers or releases may be considered by the Special Master in deciding whether to make an award or the amount of an award, to the extent that the waiver or release evidences compensation already actually received for claims that would otherwise be eligible for an award.

II. SUMMARY OF THE LITIGATION

A. The Plaintiffs lawsuit alleges, on behalf of themselves and the Class, that the Defendants unlawfully discriminated against African-Americans on the basis of their race in various employment practices at CCNPP including promotion, pay, training, transfer, job assignments, and discipline, and in the maintenance of a racially hostile work environment.

B. The Defendants, which include Calvert Cliffs Nuclear Power Plant, Inc., Constellation Nuclear LLC, Baltimore Gas & Electric Company, Constellation Energy Group, Inc., have denied the Plaintiffs' allegations and any wrongdoing and have vigorously opposed the claims made against them. In the Settlement, the Defendants expressly do not admit any discrimination or unlawful conduct.

C. If the Settlement is approved by the District Court, the Court will certify, under Rules 23(b)(2) and 23(b)(3) of the Federal Rules of Civil Procedure, a class defined as: "all African-American employees who are or were employed in non-managerial positions at CCNPP at any time between September 20, 1996 and the Preliminary Approval Date."

D. Attorneys for the class ("Class Counsel") in this action are:

Lead Counsel:

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III. SUMMARY OF THE SETTLEMENT AGREEMENT

A. Injunctive Relief: The Settlement provides for comprehensive changes to CCNPP's employment practices designed to enhance opportunities for employment of African-Americans.

Diversity Efforts. In particular, the Consent Decree provides for the company to spend a minimum of \$500,000 on diversity efforts, including retaining a Diversity Director, whose responsibilities will include reviewing the data and reports required by the Consent Decree to monitor and assist the progress of CCNPP in its diversity efforts, and monitoring the implementation and operational effectiveness of the programs, functions, and responsibilities specified in the Consent Decree with respect to training, assignments, promotions, testing, and discipline. The Diversity Director will also be empowered to take appropriate actions to ensure the effective implementation of all injunctive relief provided in the Consent Decree. Additionally, the Diversity Director will hold an annual "Town Hall meeting" at CCNPP to report on the status of diversity activities, and will conduct a forum to raise and discuss issues of particular importance to African-American employees at CCNPP.

The Consent Decree also provides for the following injunctive relief measures:

- (1) professional, comprehensive, mandatory training on Equal Employment Opportunity ("EEO") issues for all employees, including, *e.g.*, job interviews, job selections, and administration of discipline;
- (2) substantial revisions to the procedures and practices regarding qualifications training and evaluation, including choice of trainer and/or evaluator safeguards for oral qualification board/exams administration, establishment of timeframes for completion of qualification training, progress tracking by Training Oversight Committees, requalification plans, and monitoring for employees who have not completed initial qualifications;
- (3) revision of procedures and practices for employee attendance at non-accredited training and training for elective qualifications for accredited programs, including a training request form and procedure, and monitoring of selections;
- (4) career development programs, including a "Roadmap to Success at CCNPP" program, and development of "job maps" for all positions of first-line supervisors and above;
- (5) job descriptions for all jobs, including prerequisites, required and preferred

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qualifications and the necessary knowledge, skills and abilities;

- (6) annual career development workshops for African-American employees supervised by the Constellation Generation Group's Organizational Development Human Resources Team, which will include managers from each significant department at CCNPP;
- (7) mentorship training for managers and their direct reports, and their performance evaluations to include mentoring efforts and their commitment to diversity;
- (8) revision of procedures and practices for temporary assignments, including announcement of temporary assignments at the first-line supervisor level and below to be filled by CCNPP employees, expression of interest procedure, assignments to be consistent with EEO policy, and monitoring;
- (9) revision of procedures and practices for the Succession Planning Process for higher level jobs, including creation of "Individual Development Plans" and involvement of the Diversity Director in making sure Succession Planning is consistent with EEO and affirmative action policies;
- (10) posting of all vacant jobs (subject to certain exceptions) at the first-line supervisor level and below to be filled by CCNPP employees for positions that are expected to last more than 120 days, with job descriptions referenced and available;
- (11) revision of practices and procedures for job interviews and initial qualifications screening, including opportunities for meetings with Human Resources and hiring managers for explanations for any denial of an interview, monitoring of interview decisions, opportunities for African-American candidate to be re-interviewed, and procedures for consistency of interviews;
- (12) revision of practices and procedures for job selection decision making, including documentation of decision makers, basis for the decision; Human Resources review for proper procedure; rules for consideration of discipline, and monitoring by the Diversity Director;
- (13) an appeal process for lateral job transfer decisions, with monitoring by the Diversity Director;
- (14) revision of practices and procedures for testing, including job posting, listing of tests,

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written communication of testing results, test grading review, and test results monitoring by the Diversity Director;

- (15) revision of procedures and practices with respect to disciplinary decision making and fitness for duty examinations, including discipline consultations with HR, a policy instructing supervisors and managers that all incidents warranting discipline must be reported to Human Resources, a policy prohibiting punitive fitness for duty exams, development of a discipline database log to be reviewed for comparable violations, written statement of reasons for the level of discipline imposed, documented appeal process, and monitoring by the Diversity Director;
- (16) establishment of a formal EEO complaint procedure;
- (17) posting and provision of written copies of a new CCNPP employee handbook.

Reports. CCNPP must deliver written quarterly reports to Class Counsel concerning the implementation of the injunctive relief, including copies of all policies, procedures, or practices implemented, and a summary of any race discrimination complaints and situations warranting review or action. The District Court shall retain jurisdiction of the case during the 3-year term of the Consent Decree to resolve any disputes and to interpret and enforce the Consent Decree as necessary.

B. Monetary Relief: The Settlement also provides that the Defendants will pay \$1,850,000 into a *Class Settlement Fund*, with no more than \$300,000 from that Fund to be paid as compensation to a Special Master,¹ who will be empowered to distribute the Fund monies to redress Class Members' claims of race discrimination in employment. The Claims process is defined in the Consent Decree and will also be described in detail in materials to be sent to each Class Member upon approval and entry of the Consent Decree by the Court. The Special Master is charged with the duty to use the Class Fund liberally for the humanitarian and remedial purposes for which Title VII of the Civil Rights Act of 1964 was intended. Accordingly, the Special Master is charged with the

¹ The Special Master will be compensated as follows: \$75,000 for the first set of up to 20 Claimants; \$2,000 each for the next 20 Claimants; \$1,500 each for the next 20 Claimants; \$1,200 each for the remaining Claimants. Any portion of the \$300,000 earmarked for the Special Master which is not paid under the above schedule shall revert to the Class Settlement Fund.

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duty to provide appropriate relief from the Class Fund, taking into consideration backpay, frontpay, and compensatory damages.

Summary of the Claims Process: Class Counsel will send to Class Members a Claim Form and Release. Completed Claim Forms must be returned to the Special Master with copies to Class Counsel and CCNPP's counsel no later than ninety (90) days after the Effective Date of the Consent Decree. Class Counsel shall, upon request of the Class Member, submit to the Special Master a brief on behalf of the Class Member advocating the merits and value of the claims, together with any supporting documentation, affidavits, or declarations. CCNPP may submit any response to the Claim Forms, but CCNPP's response shall not comprise advocacy regarding the merits or value of any claim(s), including the extent of monetary relief to be granted, but shall be limited to correction of factual matters. The Special Master may request additional submissions and documents from Class Counsel or the Claimant or from CCNPP. Eligible Claimants shall be entitled to a hearing before the Special Master. The Special Master will set all hearing dates and notify the claimant, Class Counsel and CCNPP Counsel of the dates and times of the hearings; a Claimant's hearing will generally last no longer than 2 hours, except at the discretion of the Special Master.

The Special Master shall make awards to Eligible Claimants within sixty (60) days of the final hearing, and shall make awards if he finds some evidence of legally cognizable race discrimination or retaliation. The Special Master will have sole discretion to determine the eligibility for and amount due to each Claimant under the evidence submitted, and will provide a brief written explanation of the basis of his/her decision on each claim. If 50 or more Claimants are awarded money by the Special Master, then the Special Master must award the entire Class Fund; if there are fewer than 50 awards, the Special Master may, but need not, award the entire Class Fund; any residual would go to a charitable or educational scholarship fund chosen by the Plaintiffs. The total amount of all awards made by the Special Master to Eligible Class Members shall not exceed the Class Fund.

All Class Members filing claims and pursuing awards from the Special Master must sign a formal release of all employment discrimination claims against the Defendants.

Payment to the Named Plaintiffs. CCNPP has agreed to pay the named Plaintiffs a total amount of \$650,000.00 as compensation for their roles as Class Representatives and for their assistance to Class Counsel in prosecuting this action on behalf of the Class. Plaintiffs themselves, with the assistance of Plaintiffs' Counsel, shall determine how this amount shall be divided among said Plaintiffs. The named Plaintiffs may also submit claims in the Claims Process. Five of the eight named Plaintiffs no longer work for CCNPP and have agreed not to reapply for employment with CCNPP. Once the claims process is completed and all monies have been awarded by the Special Master, such Plaintiffs may apply for employment at any Constellation Energy Group facility other

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than CCNPP. The named Plaintiffs also must sign formal releases of claims of employment discrimination claims against the Defendants.

Attorneys Fees and Costs. Pursuant to the Consent Decree, Class Counsel has filed with the Court a motion under Rule 54(d)(2) of the Federal Rules of Civil Procedure, for CCNPP to pay reasonable attorneys' fees, litigation expenses and costs for Class Counsel's representation of the named Plaintiffs and the Class, as follows: \$1,750,000 for reasonable attorneys' fees for work throughout the investigation and the litigation; \$315,000 for litigation expenses and costs incurred in connection with the litigation; \$25,000 for time spent preparing the necessary papers in connection with the Consent Decree and for representing the Plaintiffs and the Class in court at the Fairness Hearing; and a flat fee of \$75,000 for representation of any and all Claimants in the Claims process, regardless of the number, complexity, or merits of such Claimant's claims or the length of any hearing. The Parties agree that these fees and costs are fair and reasonable.

IV. SUMMARY

The foregoing is only a summary description of the Settlement. The full description of the Settlement is set forth in the Consent Decree, and the language of the Consent Decree governs the terms of the Settlement.

V. CHANGE OF ADDRESS

If you move after receiving this Notice, if it was misaddressed, or if for any reason you want future correspondence concerning this litigation and the Settlement sent to a different address, you should supply your current preferred address to Class Counsel at one of the addresses or telephone numbers listed above.

DATED: May 17, 2005

Clerk of the Court
UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MARYLAND
NORTHERN DIVISION